

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,	:	
	:	Case No. 1:16-cr-00309
Plaintiff,	:	
	:	
vs.	:	ORDER
	:	
KRISTOPHER L. COURTNEY,	:	
	:	
Defendant.	:	

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JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Kristopher Courtney moved for a sentence reduction under the compassionate-release statute.<sup>1</sup> Courtney's motion argued, in part, that a nonretroactive sentencing-law change presented an extraordinary and compelling reason for relief.<sup>2</sup>

When Courtney filed his motion, the Sixth Circuit had issued conflicting decisions about whether district courts could consider nonretroactive sentencing-law changes when deciding compassionate-release motions.<sup>3</sup> But the en banc Sixth Circuit appeared ready to resolve the intracircuit split in *United States v. McCall*.<sup>4</sup>

On May 25, 2022, the Court granted the Government's motion to hold Courtney's motion in abeyance pending the Sixth Circuit's *McCall* decision.<sup>5</sup>

On December 22, 2022, the Sixth Circuit issued its *McCall* decision.<sup>6</sup> The en banc court held that nonretroactive sentencing-law changes do not provide extraordinary and

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<sup>1</sup> Doc. 68; 18 U.S.C. § 3582(c)(1)(A)(ii). Courtney's counsel supplemented his pro se motion. Doc. 70.

<sup>2</sup> Doc. 70 at 2–5 (PageID 1110–13).

<sup>3</sup> See *United States v. McCall*, 21-3400, 2022 WL 17843865, at \*2 (6th Cir. Dec. 22, 2022) (describing the split).

<sup>4</sup> *United States v. McCall*, 29 F.4th 816 (6th Cir. 2022) (mem.) (granting rehearing en banc).

<sup>5</sup> Doc. 73.

<sup>6</sup> *McCall*, 2022 WL 17843865 (6th Cir. Dec. 22, 2022).

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compelling reasons to grant compassionate release.<sup>7</sup>

Now, the Court **LIFTS THE STAY** on Courtney's motion and **ORDERS** the Government to respond to Courtney's motion within 21 days of this order. The Court further **ORDERS** Courtney to file any reply within 14 days of the Government's response.

IT IS SO ORDERED

Dated: December 27, 2022

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>7</sup> *McCall*, 2022 WL 17843865, at \*5–11 (6th Cir. Dec. 22, 2022)